

RESOLUTION NUMBER 2018-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA, AUTHORIZING THE BORROWING OF NOT EXCEEDING \$3,188,000 FROM THE POOLED COMMERCIAL PAPER LOAN PROGRAM OF THE FLORIDA LOCAL GOVERNMENT FINANCE COMMISSION PURSUANT TO THE TERMS OF THE LOAN AGREEMENT AMONG THE COUNTY, JPMORGAN CHASE BANK, N.A., AND THE COMMISSION IN ORDER TO FINANCE VARIOUS TRANSPORTATION RELATED CAPITAL IMPROVEMENTS WITHIN THE COUNTY, INCLUDING THE REIMBURSEMENT OF ANY EXPENSES PREVIOUSLY INCURRED BY THE COUNTY IN CONNECTION THEREWITH; AUTHORIZING THE EXECUTION OF A LOAN NOTE OR LOAN NOTES TO EVIDENCE SUCH BORROWING AND AGREEING TO SECURE SUCH BORROWING WITH A COVENANT TO BUDGET AND APPROPRIATE LEGALLY AVAILABLE NON-AD VALOREM REVENUES OF THE COUNTY, ALL AS PROVIDED IN THE LOAN AGREEMENT; AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH OTHER DOCUMENTS AS MAY BE NECESSARY TO EFFECT SUCH BORROWING; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA:

SECTION 1. DEFINITIONS. Unless the context of use indicates another meaning or intent, the following words and terms as used in this Resolution shall have the following meanings. Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the hereinafter defined Loan Agreement.

"Act" means, collectively, Part I, Chapter 125, Florida Statutes, Part I, Chapter 163, Florida Statutes, and all other applicable provisions of law.

"Additional Payments" means the payments required to be made by the Public Agency pursuant to Sections 5.02(b), 5.02(c), 5.02(d), 5.05, 6.06(e) and 8.04 of the Loan Agreement.

"Bank" means JPMorgan Chase Bank, N.A., and any successors thereto.

"Board" means the Board of County Commissioners of the Public Agency.

"Chairman" means the Chairman or Vice Chairman of the Board, and such other person as may be duly authorized to act on his or her behalf.

"Clerk" means the Clerk of the Public Agency, and such other person as may be duly authorized to act on his or her behalf.

"Commission" means the Florida Local Government Finance Commission, and any assigns or successors thereto.

"Designated Revenues" means (1) the Public Agency Moneys and (2) the proceeds of the Loan pending the application thereof.

"Loan" means the loan to be made by the Commission to the Public Agency from proceeds of the Series A Notes in accordance with the terms of this Resolution and of the Loan Agreement.

"Loan Agreement" means the Loan Agreement, dated as of June 6, 2011, among the Public Agency, the Commission and the Bank, as the same may be amended and supplemented.

"Loan Rate" has the meaning set forth in the Loan Agreement.

"Loan Repayments" or **"Repayments"** means the payments of principal and interest on the Loan Amounts payable by the Public Agency pursuant to the provisions of the Loan Agreement and all other payments, including Additional Payments, payable by the Public Agency pursuant to the provisions of the Loan Agreement.

"Non-Ad Valorem Revenues" means all legally available revenues of the Public Agency derived from any source whatsoever other than ad valorem taxation on real and personal property, which are legally available to make the Loan Repayments required in the Loan Agreement.

"Program" means the Pooled Commercial Paper Loan Program established by the Commission for which the Bank currently provides the Credit Facility.

"Project A-9" means various transportation related capital improvements, including sidewalk installation and roadway improvements, within the South Gulf Cove and Suncoast Boulevard MSBUs, as more particularly described in the plans and specifications on file with the Public Agency, and as the same may be amended or modified from time to time.

"Public Agency" means Charlotte County, Florida, a political subdivision of the State of Florida.

"Public Agency Moneys" shall mean the moneys budgeted and appropriated by the Public Agency from Non-Ad Valorem Revenues for payment of the Loan Repayments pursuant to the Public Agency's covenant to budget and appropriate such Non-Ad Valorem Revenues contained in Section 6.04 of the Loan Agreement.

"Resolution" means this Resolution, as the same may from time to time be amended, modified or supplemented.

"Series A Notes" means the Commission's Pooled Commercial Paper Notes, Series A (Governmental Issue), to be issued from time to time by the Commission.

The terms "herein," "hereunder," "hereby," "hereto," "hereof," and any similar terms, shall refer to this Resolution; the term "heretofore" shall mean before the date of adoption of this Resolution; and the term "hereafter" shall mean after the date of adoption of this Resolution.

Words importing the masculine gender include every other gender.

Words importing the singular number include the plural number, and vice versa.

SECTION 2. AUTHORITY FOR RESOLUTION. This Resolution is adopted pursuant to the provisions of the Act.

SECTION 3. FINDINGS. It is hereby ascertained, determined and declared that:

(A) The Commission has been established for the principal purpose of issuing commercial paper notes in order to provide funds to loan to public agencies, such as the Public Agency, desiring to finance the cost of acquiring, constructing and equipping capital improvements and to finance other governmental needs.

(B) In furtherance of the foregoing, the Commission shall issue, from time to time, commercial paper notes to be known as "Florida Local Government Finance Commission Pooled Commercial Paper Notes, Series A (Governmental Issue)" pursuant to the Program and shall loan the proceeds of such Series A Notes to public agencies, including the Public Agency.

(C) Pursuant to the authority of the Act, the Commission has agreed to loan, from time to time, to the Public Agency such amounts as shall be authorized herein and in the Loan Agreement in order to enable the Public Agency to finance, refinance and/or reimburse the costs of the acquisition, construction and equipping of various capital improvements, including the Project A-9, and the Public Agency desires to borrow such amounts from the Commission subject to the terms and conditions of the Loan Agreement.

(D) The Public Agency desires to borrow an amount not to exceed \$3,188,000 in order to finance, refinance or reimburse costs of Project A-9.

(E) The Public Agency hereby determines that the provision of funds by the Commission to the Public Agency in the form of the Loan pursuant to the terms of the Loan Agreement and the financing of Project A-9 will assist in the development and maintenance of the public welfare of the residents of the Public Agency, and shall serve a public purpose by improving the health and living conditions, and providing governmental services, facilities and programs and will promote the most efficient and economical development of such services, facilities and programs.

(F) The Loan shall be repaid solely from the Designated Revenues as provided in the Loan Agreement. The ad valorem taxing power of the Public Agency will never be necessary or authorized to make the Loan Repayments.

(G) Due to the potential volatility of the market for tax-exempt obligations such as the Note or Notes to be issued evidencing the Loan, the complexity of the transactions relating to such Note or Notes and the uniqueness of the Program, it is in the best interest of the Public Agency to deliver the Note or Notes to the Commission pursuant to the Program by a negotiated sale pursuant to Section 218.385(1), Florida Statutes, allowing the Public Agency to utilize the Program in which it participates from time to time and to enter the market at the most advantageous time, rather than at a specified advertised date, thereby permitting the Public Agency to obtain the best possible price, issuance costs and interest rate for such Note or Notes.

SECTION 4. TERMS OF LOAN. The Public Agency hereby approves of the Loan in an aggregate principal amount of not exceeding \$3,188,000 for the purposes of providing the Public Agency with sufficient funds to finance Project A-9. The Chairman and the Clerk are hereby authorized to execute, seal and deliver on behalf of the Public Agency a Loan Note or Notes and other documents, instruments, agreements and certificates necessary or desirable to effectuate the Loan as provided in the Loan Agreement. The Loan Notes shall reflect the terms of the Loan or draws made on account of the Loan and shall be substantially in the form attached to the Loan Agreement as Exhibit D. The Clerk shall determine the amount of funding of the Loan in accordance with the terms of the Loan Agreement as shall be determined necessary to finance Project A-9. The repayment schedule for the principal of the Loan or the draws made on account of the Loan shall be determined by the Clerk as permitted by the Loan Agreement, provided the final payment shall not be later than five years from the date of the applicable Loan or draw. The Loan is subject to mandatory prepayment in accordance with Section 5.06 of the Loan Agreement. Draws made in regard to the Loan shall bear interest at the Loan Rate in accordance with the terms of the Loan Agreement. The Public Agency further agrees to make all Loan Repayments required of it pursuant to the terms of the Loan Agreement. The letter of credit fee with respect to the Loan shall equal 85 basis points or such other amount as may be agreed upon between the Public Agency and the Bank.

SECTION 5. AUTHORIZATION OF PROJECT A-9. The Public Agency does hereby authorize Project A-9 as described herein and the reimbursement of any costs incurred by the Public Agency with respect to Project A-9 within 60 days prior to the date hereof that are approved by bond counsel to the Program.

SECTION 6. SECURITY FOR THE LOAN. The Public Agency's obligation to repay the Loan will be secured by a pledge of and lien upon the Designated Revenues in accordance with the terms of the Loan Agreement. The obligation of the Public Agency to repay the Loan shall not be deemed a pledge of the faith and credit or taxing power of the Public Agency and such obligation shall not create a lien on any property whatsoever of or in the Public Agency other than the Designated Revenues.

SECTION 7. RESOLUTION TO CONSTITUTE CONTRACT. In consideration of the making of the Loan by the Commission, this Resolution shall be deemed to be and shall constitute a contract between (i) the Public Agency and (ii) the Commission and the Bank.

SECTION 8. GENERAL AUTHORITY. The members of the Board and the officers, attorneys and other agents or employees of the Public Agency are hereby authorized to do all acts and things required of them by this Resolution and the Loan Agreement, or desirable or consistent with the requirements of this Resolution and the Loan Agreement, for the full punctual and complete performance of all the terms, covenants and agreements contained in this Resolution and the Loan Agreement, and each member, employee, attorney and officer of the Public Agency or its Board is hereby authorized and directed to execute and deliver any and all papers and instruments and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Resolution and the Loan Agreement.

SECTION 9. SEVERABILITY. If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other provisions hereof.

SECTION 10. REPEAL OF INCONSISTENT RESOLUTIONS. All resolutions or parts thereof in conflict herewith are hereby superseded and repealed to the extent of such conflict.

SECTION 11. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

DULY ADOPTED, in Regular Session this 26th day of June, 2018.

**BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA**

(SEAL)

By: _____
Kenneth W. Doherty, Chairman

ATTEST:

Roger D. Eaton, Clerk of the Circuit
Court and Ex-Officio Clerk to the
Board of County Commissioners

By: _____
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

By: _____
Janette S. Knowlton
County Attorney